

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DWAIN EDWARD THOMAS,

Plaintiff,

v.

KEVIN STITT, *et al.*,

Defendants.

No. 20-cv-944-D

**PLAINTIFF’S OBJECTIONS TO DEFENDANTS BATES, SIEGFRIED, AND
HARPE’S FINAL WITNESS AND EXHIBIT LISTS**

Plaintiff Dwain Edward Thomas, by and through his undersigned counsel, and pursuant to the Court’s May 3, 2024 Order (Dkt. 79), hereby submits the following objections to Defendants Tom Bates, T. Hastings Siegfried, and Steven Harpe’s Final Witness and Exhibit Lists (Dkt. 99).

EXHIBITS

NO.	DOCUMENT	OBJECTION
1	Plaintiff Parole Docket Ballot – October 2022 [BS DEF PPB 00020]	No objection
2	Plaintiff Investigative Report – 09/01/2022 [BS DEF PPB 00021-00023]	No objection
3	Plaintiff Request to Parole Investigator – 08/25/2020 [BS DEF PPB 00024]	No objection
4	Plaintiff Request to Parole Investigator – 3/4/2020 [BS DEF PPB 00025]	No objection
5	Plaintiff Request to Parole Investigator – 10/10/2019 [BS DEF PPB 00026]	No objection
6	Plaintiff Request to Parole Investigator – 09/08/2019 [BS DEF PPB 00027-00029]	No objection
7	Plaintiff Parole Docket Ballot – October 2019 [BS DEF PPB 00030]	No objection
8	Plaintiff Parole Docket Ballot – October 2016 [BS DEF PPB 00032]	No objection

9	Plaintiff Investigative Report – 9/6/2016 [BS DEF PPB 00033-00035]	No objection
10	Plaintiff Investigative Report – 9/5/2013 [BS DEF PPB 00036-00038]	No objection
11	Plaintiff Parole Docket Ballot – October 2013 [BS DEF PPB 00039]	No objection
12	Plaintiff Investigative Report – 10/22/2010 [BS DEF PPB 00040-00042]	No objection
13	Plaintiff Parole Docket Ballot – October 2010 [BS DEF PPB 00043]	No objection
14	Plaintiff Notification of Parole Consideration Date [BS DEF PPB 00044]	No objection
15	Plaintiff Pardon and Parole Board Docketing Worksheet [BS PPB 00045]	No objection
16	Pardon and Parole Board Investigator Handbook – 2023 [BS DEF PPB 00138-188]	No objection
17	Victims Protest Letters Re: Plaintiff (REDACTED) [BS DEF PPB 08398-0411]	Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404), Hearsay (Fed. R. Evid. 802)
18	Plaintiff's ODOC Field File - Section 1: Consolidated Records Card (REDACTED) [BS DEF ODOC 308-317]	<p>This 10-page exhibit purports to be a specific "Section" of Mr. Thomas' ODOC Field File, but the Field File was neither maintained nor produced to Plaintiff in specific enumerated sections. It is not clear to Plaintiff that each of the various documents contained in the Field File were maintained in the ordinary course of business, as the files include various third-party statements and other documents for which Plaintiff cannot readily identify the source. Plaintiff objects to certain of the documents contained therein as follows:</p> <p>Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404).</p>

19	Plaintiff's ODOC Field File - Section 2: Judgment and Sentence Records (REDACTED) [BS DEF ODOC 318-353]	<p>This 36-page exhibit purports to be a specific "Section" of Mr. Thomas' ODOC Field File, but the Field File was neither maintained nor produced to Plaintiff in specific enumerated sections. It is not clear to Plaintiff that each of the various documents contained in the Field File were maintained in the ordinary course of business, as the files include various third-party statements and other documents for which Plaintiff cannot readily identify the source. Plaintiff objects to certain of the documents contained therein as follows:</p> <p>No objection as to BS DEF ODOC 318-320.</p> <p>As to BS DEF ODOC 321-353: Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404), Hearsay (Fed. R. Evid. 802).</p>
20	Plaintiff's ODOC Field File - Section 3: Inmate Time Credit Reports (REDACTED) [BS DEF ODOC 354-462]	No objection
21	Plaintiff's ODOC Field File - Section 4: College Transcripts and Achievement Credits (REDACTED) [BS DEF ODOC 463-490]	No objection
22	Plaintiff's ODOC Field File - Section 5: Custody Assessment Scales and Misconduct Screening Forms (REDACTED) [BS DEF ODOC 491-581]	<p>This 91-page exhibit purports to be a specific "Section" of Mr. Thomas' ODOC Field File, but the Field File was neither maintained nor produced to Plaintiff in specific enumerated sections. It is not clear to Plaintiff that each of the various documents contained in the Field File were maintained in the ordinary course of business, as the files include various third-party statements and other documents for which Plaintiff cannot readily identify the source. Plaintiff objects to certain of the documents contained therein as follows:</p>

		<p>No objection as to BS DEF ODOC 0548.</p> <p>As to BS DEF ODOC 491-547 and BS DEF ODOC 549-581: Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404), Hearsay (Fed. R. Evid. 802).</p>
23	Plaintiff's ODOC Field File- Section 6: Institution Records (REDACTED) [BS DEF ODOC 582-750]	<p>This 169-page exhibit purports to be a specific "Section" of Mr. Thomas' ODOC Field File, but the Field File was neither maintained nor produced to Plaintiff in specific enumerated sections. It is not clear to Plaintiff that each of the various documents contained in the Field File were maintained in the ordinary course of business, as the files include various third-party statements and other documents for which Plaintiff cannot readily identify the source. Plaintiff objects to certain of the documents contained therein as follows:</p> <p>No objection as to BS DEF ODOC 584-85, 636, 659, 724-742, 745-750.</p> <p>As to BS DEF ODOC 582-583, 586-635, 637-658, 660-723, 743-744: Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404), Hearsay (Fed. R. Evid. 802). Additionally, all or a portion of each page of BS DEF ODOC 615-630 is illegible.</p>
24	Plaintiff's ODOC Field File- Section 7: Housing Records (REDACTED) [BS DEF ODOC 751-759]	<p>This 9-page exhibit purports to be a specific "Section" of Mr. Thomas' ODOC Field File, but the Field File was neither maintained nor produced to Plaintiff in specific enumerated sections. It is not clear to Plaintiff that each of the various documents contained in the Field File were maintained in the ordinary course of business, as the files include various third-</p>

		<p>party statements and other documents for which Plaintiff cannot readily identify the source. Plaintiff objects to certain of the documents contained therein as follows:</p> <p>Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404).</p>
25	Plaintiff's ODOC Field File- Section 8: Disciplinary Reports and Misconduct Records (REDACTED) [BS DEF ODOC 760-823]	<p>This 64-page exhibit purports to be a specific "Section" of Mr. Thomas' ODOC Field File, but the Field File was neither maintained nor produced to Plaintiff in specific enumerated sections. It is not clear to Plaintiff that each of the various documents contained in the Field File were maintained in the ordinary course of business, as the files include various third-party statements and other documents for which Plaintiff cannot readily identify the source. Plaintiff objects to certain of the documents contained therein as follows:</p> <p>Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404), Hearsay (Fed. R. Evid. 802).</p>
26	Plaintiff's ODOC Field File- Section 9: Facility Records and Self Report Forms (REDACTED) [BS DEF ODOC 824-857]	<p>This 34-page exhibit purports to be a specific "Section" of Mr. Thomas' ODOC Field File, but the Field File was neither maintained nor produced to Plaintiff in specific enumerated sections. It is not clear to Plaintiff that each of the various documents contained in the Field File were maintained in the ordinary course of business, as the files include various third-party statements and other documents for which Plaintiff cannot readily identify the source. Plaintiff objects to certain of the documents contained therein as follows:</p> <p>Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid.</p>

		602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404), Hearsay (Fed. R. Evid. 802).
27	Plaintiff's ODOC Field File- Section 10: Custody Assessment Scales and Misconduct Screening Forms (REDACTED) [BS DEF ODOC 858-959]	<p>This 102-page exhibit purports to be a specific "Section" of Mr. Thomas' ODOC Field File, but the Field File was neither maintained nor produced to Plaintiff in specific enumerated sections. It is not clear to Plaintiff that each of the various documents contained in the Field File were maintained in the ordinary course of business, as the files include various third-party statements and other documents for which Plaintiff cannot readily identify the source. Plaintiff objects to certain of the documents contained therein as follows:</p> <p>No objection as to BS DEF ODOC 862-864, 889-894, 926-928, 943-945.</p> <p>As to BS DEF ODOC 858-861, 865-888, 895-925, 929-942, 946-959: Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404), Hearsay (Fed. R. Evid. 802), Incomplete (Fed. R. Evid. 106).</p>
28	Plaintiff's ODOC Field File- Section 11: Offender Lookup (REDACTED) [BS DEF ODOC 960-990]	<p>This 31-page exhibit purports to be a specific "Section" of Mr. Thomas' ODOC Field File, but the Field File was neither maintained nor produced to Plaintiff in specific enumerated sections. It is not clear to Plaintiff that each of the various documents contained in the Field File were maintained in the ordinary course of business, as the files include various third-party statements and other documents for which Plaintiff cannot readily identify the source. Plaintiff objects to certain of the documents contained therein as follows:</p> <p>No objection as to BS DEF ODOC 970-71, 973.</p>

		As to BS DEF ODOC 960-969, 972, 974-990: Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Prejudicial (Fed. R. Evid. 403), Irrelevant (Fed. R. Evid. 401), Improper Character Evidence (Fed. R. Evid. 404), Hearsay (Fed. R. Evid. 802).
29	Plaintiff's ODOC Field File- Section 12: Adjustment Review and Offender Records (REDACTED) [BS DEF ODOC 991-1136]	<p>This 146-page exhibit purports to be a specific "Section" of Mr. Thomas' ODOC Field File, but the Field File was neither maintained nor produced to Plaintiff in specific enumerated sections. It is not clear to Plaintiff that each of the various documents contained in the Field File were maintained in the ordinary course of business, as the files include various third-party statements and other documents for which Plaintiff cannot readily identify the source. Plaintiff objects to certain of the documents contained therein as follows:</p> <p>No objection as to BS DEF ODOC 1019-1021, 1024-1031, 1034, 1053, 1064-65, 1072, 1079-1080, 1105-1110.</p> <p>As to BS DEF ODOC 991-1018, 1022-1023, 1032-1033, 1035-1052, 1054-1063, 1066-1071, 1073-1078, 1081-1104, 1111-1136: Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404), Hearsay (Fed. R. Evid. 802).</p>
30	Plaintiff Dwain Thomas Notification of Parole Hearing Date [BS DEF ODOC 23385]	No objection
31	Affidavit of Mark Knutson [Dkt. 36-15, pg. 2]	Improper Authentication (Fed. R. Evid. 901), Lack of Foundation (Fed. R. Evid. 602), Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Hearsay (Fed. R. Evid. 802)
32	Investigation Report [Dkt. 36, pgs. 3-9]	Improper Authentication (Fed. R. Evid. 901); Irrelevant (Fed. R. Evid. 401), Prejudicial (Fed. R. Evid. 403), Improper Character Evidence (Fed. R. Evid. 404),

		Hearsay (Fed. R. Evid. 802), Not Best Evidence (Fed. R. Evid. 1002)
33	Pardon and Parole Board Appeal of Parole Docket Date Form [BS DEF PPB 00053]	No objection
34	Notification of Parole Hearing Date Form [BS DEF PPB 00054]	No objection
35	Waiver of Parole Form [BS DEF PPB 00055]	No objection
36	Inmate Request to Parole Investigator Form [BS DEF PPB 00056]	No objection
37	Parole Consideration Form [BS DEF PPB 00057]	No objection
38	Parole Interview Questionnaire [BS DEF PPB 00058-64]	No objection
39	Pardon and Parole Board Form 007-A – Request for Jacket Review [BS DEF PPB 00065]	No objection
40	Pardon and Parole Board Employee Handbook – 2022 [BS DEF PPB 00066-00137]	No objection
41	Parole Process Procedures Training PowerPoint [BS DEF PPB 01137-01195]	Objection as to incorrect Bates Stamp; the correct Bates stamp is: BS DEF ODOC 01137-01195. Otherwise, no objection.
42	October 2019 Parole and Business Meeting Minutes [BS DEF PPB 23386-23392]	No objection
43	Department of Corrections Policies and Procedures Section 06 – Classification and Case Management	No objection
44	Department of Corrections Policies and Procedures Section 09 – Programs	No objection
45	Pardon and Parole Board Policy 101 – Duties and Responsibilities of the Pardon and Parole Board	No objection
46	Pardon and Parole Board Policy 102 – Duties, Responsibilities, and Code of Conduct	No objection
	Any and all exhibits for impeachment and/or rebuttal.	Objections reserved until properly identified/specified
	All documents produced by Plaintiff in discovery not objected to by Defendants.	Objections reserved until properly identified/specified

	All exhibits listed or identified by Plaintiff and not objected to by Defendants.	Objections reserved until properly identified/specified
	Defendants reserve the right to list additional exhibits identified in or necessitated by subsequent discovery or depositions.	Objections reserved until properly identified/specified

Date: July 26, 2024

Respectfully submitted,

/s/ Emily Merki Long

Tracie L. Bryant (*pro hac vice*)

Emily Merki Long (*pro hac vice*)

Alyssa M. McClure (*pro hac vice*)

Caroline H. Robinson (*pro hac vice*)

Margaret R. Hagen (*pro hac vice*)

KIRKLAND & ELLIS LLP

1301 Pennsylvania Avenue NW

Washington, DC 20004

(202) 389-5099

tracie.bryant@kirkland.com

emily.long@kirkland.com

alyssa.mcclure@kirkland.com

caroline.robinson@kirkland.com

maggie.hagen@kirkland.com

Amy E. Breihan (*pro hac vice*)

RODERICK & SOLANGE MACARTHUR

JUSTICE CENTER

906 Olive Street, Suite 420

St. Louis, MO 63101

(314) 254-8540

amy.breihan@macarthurjustice.org

Spencer Bryan

Steven J. Terrill

BRYAN & TERRILL LAW

3015 E. Skelly Drive, Suite 400

Tulsa, OK 74105

(918) 935-2777

jsbryan@bryanterrill.com

sjterrill@bryanterrill.com

Counsel for Plaintiff Dwain Edward Thomas

CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Western District of Oklahoma by using the CM/ECF system. I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Emily Merki Long
Emily Merki Long
KIRKLAND & ELLIS LLP
1301 Pennsylvania Avenue NW
Washington, DC 20004
(202) 389-5099
emily.long@kirkland.com